

COMMISSION ON AFFORDABLE HEALTH CARE

Application of Amendment 41

11-10-14

Background

The appointed Commissioners for the Commission on Affordable Health Care desire to demonstrate their sensitivity to the need for ethics standards in the operations of the Commission.

Amendment 41 was a citizen initiative adopted by the voters of Colorado in the 2006 general election. Amendment 41 has three main sections.

First there is a “gift ban,” which places restrictions on gifts that exceed a nominal value—currently \$53 per year. Gifts from lobbyists are banned regardless of the amount. This limitation applies to state and local elected officials, government employees, and public officials. Second, Amendment 41 prohibits statewide elected officials and members of the general assembly from representing other persons or entities for payment in front of other elected officeholders or the General Assembly. Finally, Amendment 41 creates the Colorado Independent Ethics Commission. Colo. Const. art. XXIX.

Detail

Amendment 41 Standards of Conduct

Ballot Title: An amendment to the Colorado constitution concerning standards of conduct by persons who are professionally involved with government activities, and in connection therewith, prohibiting a public officer, member of the general assembly, local government official, or government employee from soliciting or accepting certain monetary or in-kind gifts; prohibiting a professional lobbyist from giving anything of value to a public officer, member of the general assembly, local government official, government employees, or such person’s immediate family member; prohibiting a statewide elected officeholder or member of the general assembly from personally representing another person or entity for compensation before any other such office holder or member for a period of two years following departure from office; establishing penalties for a breach of public trust or inducement of such a breach; creating a five member independent ethics commission to hear ethics complaints, to assess penalties, and to issue advisory opinions on ethics issues; and specifying that the measure shall not apply to home rule jurisdictions that have adopted laws concerning matters covered by this measure.

Important Note

The prohibitions in Amendment 41 do not apply to this Commission. Amendment 41 applies to “public officers” among others. The amendment defines “public officer” as “any elected officer, including all statewide elected officeholders, the head of any department of the executive branch, and elected and appointed members of state boards and commissions.” Colo. Const. art. XXIX, § 2(6). However, “public officer” specifically does not include “any member of a board, commission, council or committee who receives no compensation other than a per diem

allowance or necessary and reasonable expenses.” *Id.* As such, the restrictions of Amendment 41 do not apply to the members of the Commission. Furthermore, because the voting members of the Commissioners each have full-time employment that involves aspects of health care, any self-imposed limitation regarding gifts on the voting members of the Commission should be limited to activities when the Commissioner is acting on behalf of the Commission, or when the encounter relates specifically to the activities or deliberations of the Commission.

Proposal

The members of the Commission shall avoid conduct that is in violation of the public trust placed in them.